

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEPHEN J. SEEFELDT,

Plaintiff,

Case No. 20-cv-238-pp

v.

ANDREW M. SAUL,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff indicates that he is not employed, he is not married, and he has no dependents he is responsible for supporting. Dkt. No. 3 at 1. The only income listed by the plaintiff in the last twelve months is a \$5,000 gift from his parents, and a \$2,000 loan from his parents. Id. at 2. The plaintiff lists a mortgage payment of \$320.34 per

month and other household expenses of \$730 per month. *Id.* The plaintiff owns a 2004 Jeep Grand Cherokee worth approximately \$3,500, he owns his home worth approximately \$43,000 with no equity, he does not own any other property of value, and he has no cash on hand or in a checking or savings account. *Id.* at 3-4. In the other circumstances section of the affidavit, the plaintiff states “I’m 2 mo. behind in my mortgage. My bills are all late and behind.” *Id.* at 4. The plaintiff has demonstrated that he cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Nietzke v. Williams*, 490 U.S. 319, 325 (1989); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See *Roddy v. Astrue*, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff’s complaint indicates that he was denied Social Security Disability Insurance for lack of disability, that his is disabled, and that the conclusions and findings of fact by the Commissioner when denying benefits are not supported by substantial evidence and are contrary to federal laws and regulations. Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be

a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 18th day of February, 2020.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge